

AUG 06 2008

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

DAVID PALOMARES-GONZALEZ,

Defendant - Appellant.

No. 05-10562

D.C. No. CR-04-00087-ECR

MEMORANDUM^{*}

Appeal from the United States District Court
for the District of Nevada
Edward C. Reed, Jr., District Judge, Presiding

Submitted July 22, 2008^{**}

Before: B. FLETCHER, THOMAS, and WARDLAW, Circuit Judges.

David Palomares-Gonzalez appeals from his 108-month sentence imposed following his guilty-plea conviction for conspiracy to possess with intent to

^{*} This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

distribute and to distribute methamphetamine, in violation of 21 U.S.C. § 846. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

Palomares-Gonzalez contends that the district court procedurally erred by failing to adequately explain the sentence, failing to take into consideration all of the factors contained in 18 U.S.C. § 3553(a), basing the sentence on findings that are not supported by the record, and making the Guidelines range as “presumptively appropriate” or “the predominant factor.” These contentions are belied by the record. We conclude that there was no procedural error, and we reject Palomares-Gonzalez’s contention that the sentence is substantively reasonable. *See Gall v. United States*, 128 S. Ct. 586, 594, 597 (2007); *United States v. Carty*, 520 F.3d 984, 991-93 (9th Cir. 2008) (en banc).

AFFIRMED.